
DIVISION OF BANKING

217 ½ West Missouri, Pierre, SD 57501
605-773-3421

MEMORANDUM

NUMBER: 20-003

DATE: 06/5/08

TO: MONEY LENDERS

FROM: BRET AFDAHL, Division Counsel

RE: NEW RECORD KEEPING RULE

The South Dakota Banking Commission adopted a new rule that affects all money lenders licensed in South Dakota under SDCL Chapter 54-4. If you would like additional information regarding this rule or have any questions you can contact the Division at 605-773-3421.

The new rule requires certain records to be kept in accordance with generally accepted accounting principles and be kept for a period of at least three years. This new requirement will become effective on July 1, 2008. The text of the rule is below.

20:07:20:03. Records required to be kept – Duration. The following records shall be kept for a period of at least three years, and shall be available for investigation, examination, and copying by the division:

- (1) A report of income and financial condition of the licensee;
- (2) A list of all owners, members, partners, directors, officers, or twenty-five percent or more owners or shareholders of the licensee;
- (3) A record of each loan made that contains the loan agreement, a record of all loan proceeds dispersed, payments received, documentation of Regulation Z compliance, customer identification program documentation, and Office of Foreign Asset Control (OFAC) reporting documentation;
- (4) A record of any renewal, rollover, or flip of any loan and required principal reduction;
- (5) Documentation of any down payment, check, title document, account authorization, or assignment of wages taken as security from a borrower; and
- (6) A record of any liens or title filings and release of the same upon satisfaction of each loan.

Any records required by this section may be maintained in the form of electronically encoded data for investigation and examination in the form of computer printed reproduction, video display, or other medium that is readily convertible by the division into legible, tangible documents.

Any record required by this section shall be prepared in accordance with generally accepted accounting principles, if applicable.

Source:

General Authority: SDCL 54-4-38(3).

Law Implemented: SDCL 54-4-40, 54-4-43, 54-4-57.